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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,434	11/30/2004	Joseph P. Orban III	2846	2941
Covidien 60 Middletown Avenue North Haven, CT 06473			EXAMINER BUL VY Q	
			ART UNIT 3773	PAPER NUMBER
			MAIL DATE 05/12/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/516,434

**Applicant(s)**

ORBAN, JOSEPH P.

**Examiner**

Vy Q. Bui

**Art Unit**

3773

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 recites the limitation "the locking leg portion" in lines 9-11. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5-7, 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Moufarrege- 5,591,206.

As to claims 1-2, and 6-10, Moufarrege- 5,591,206 (Fig. 1-7; col. 7, lines 8-11) discloses a approximating device comprising 1<sup>st</sup> fastener male portion 24 of a poly-glycolic acid polymer (having locking leg portion 44 with projections between recesses 58 as a fixing element and anchoring leg portion 56), 2<sup>nd</sup> fastener female portion 22 of a poly-glycolic acid polymer (having locking leg portion 26 with projections 40 as a fixing element and anchoring leg portion 38), 1<sup>st</sup> member 74 engaging 1<sup>st</sup> fastener male portion 24 and 2<sup>nd</sup> member 74 engaging 2<sup>nd</sup> fastener female portion 22 (Fig. 4-5) substantially as recited in the claims.

As to claims 3 and 13, anchoring legs 56 and 38 of 1<sup>st</sup> and 2<sup>nd</sup> fastener portions includes sharp tips (Fig. 2).

As to claim 11, Moufarrege- 5,591,206 (Fig. 6-7; col. 5, lines 54-56) discloses 1<sup>st</sup> member 74 of a hook shape (parabolic shape) served as an anvil to engage lip portion (the portion where locking leg portion 44 meets anchoring leg portion 56 as shown in Fig. 2) of 1<sup>st</sup> male portion.

As to claim 12, Moufarrege- 5,591,206 (Fig. 6-7; col. 5, lines 54-56) discloses 2<sup>nd</sup> member 74 of a cylindrical shape having a recess/lumen to engage lip portion (the portion where locking leg portion 38 meets anchoring leg portion 26) of 2<sup>nd</sup> female portion (Fig. 1-2).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moufarrege- 5,591,206 in view of Hogendijk et al- 6,051,007.

As to claim 8, Moufarrege- 5,591,206 discloses a approximating device substantially as recited in the claim, except for two pairs of walls forming a rectangular locking passage. However, Hogendijk-'007 (Fig. 1) discloses rectangular locking passage 25. In view of Hogendijk-'007, it would have been obvious to one of ordinary skill in the art to make a Moufarrege- 5,591,206 approximating device having a rectangular locking passage as recited in the claim as this configuration is also another suitable design for Moufarrege- 5,591,206 device.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/

Primary Examiner, Art Unit 3773